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- 09/06/2022** ☐ [Agent Served](#)
Document ID - 22-SMCC-686; Served To - HUMANA INSURANCE COMPANY; Server - SO COLE COUNTY-JEFFERSON CITY; Served Date - 22-AUG-22; Served Time - 00:00:00; Service Type - Sheriff Department; Reason Description - Served; Service Text - CSC LAWYERS, SL, DESIGNEE
- 08/16/2022** ☐ [Summons Issued-Circuit](#)
Document ID: 22-SMCC-686, for HUMANA INSURANCE COMPANY.
- 08/15/2022** ☐ [Filing Info Sheet eFiling](#)
Filed By: WILLIAM CRAIG HOSMER
- ☐ [Pet Filed in Circuit Ct](#)
Petition.
Filed By: WILLIAM CRAIG HOSMER
On Behalf Of: ROBERT STACEY ATKISON
- ☐ [Judge Assigned](#)

IN THE CIRCUIT COURT OF WEBSTER COUNTY, MISSOURI

ROBERT ATKISON,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	
HUMANA INSURANCE COMPANY,)	
Registered Agent: CSC-Lawyers Incorporating)	
Service Company)	
221 Bolivar St.)	
Jefferson City, MO 65101)	
Defendant.)	

PLAINTIFF'S PETITION FOR DAMAGES
COUNT I- BREACH OF CONTRACT

COMES NOW plaintiff Robert Atkison, by and through his attorneys of record, HOSMER KING & ROYCE, LLC, and for Count I of his cause of action against defendant Humana Insurance Agency, Inc., states, alleges, and avers to the Court as follows:

1. Plaintiff Robert Atkison is a resident of Missouri, currently residing at 3267 State Highway OO, Marshfield, Webster County, Missouri 65706.
2. Defendant Humana Insurance Agency, Inc. (herein after known as "Humana") is a corporation in good standing in the State of Missouri and can be served through its registered agent, CT Corporation, at 120 S Central Ave, Clayton, St Louis County, Missouri.
3. Jurisdiction and venue are proper before this Court by virtue of Section 508.010 RSMo.
4. On or about April 13, 2020, Robert Atkison experienced chest pain and sought emergency medical care.
5. Between April 13, 2020 and September 16, 2021, Plaintiff Robert Atkison received medical services from the Cox Medical Network for a heart attack and recovery.

6. At all times relevant hereto and after April 13, 2020 Plaintiff was a policy holder of Humana, under Policy Number 833797, wherein Plaintiffs agreed to pay Defendant monthly premiums in exchange for medical insurance coverage. That said policy is attached hereto and incorporated herein as Exhibit A.

7. That all services Plaintiff Robert Atkison received during the subject time from Cox Medical Network were approved as in-network care per Humana Approval Authorization Number 128363879.

8. That Plaintiffs' policy provided between 80% and 100% coverage with copayment for in network care providers and services.

9. That Plaintiffs have filed appeals with Humana to have services received from Cox Medical Network paid.

10. That Defendant has denied and refused to pay the medical bills.

11. That treatment Plaintiff Robert Atkison received during the subject time was of emergency medical status and without emergency medical treatment could result in serious injury or death and was pre-approved by Humana.

12. That said policy of insurance was continuously in full force and effect from the time of its issuance through the present.

13. That all conditions precedent to Defendant's obligation under said policy have occurred or have been performed, or the occurrence, or performance, or both, of the conditions precedent have been excused by defendant's breach of policy.

14. That Plaintiffs have in all respects complied with the terms and conditions of said policy on or before the dates of services and had paid all stipulated premiums and had furnished

Defendant with due notice and proof of their aforesaid claim, together with a demand for payment of the benefits due under said policy.

15. That Defendant has failed and refused to pay and still fails and refuses to pay Plaintiff the aforesaid amounts due under said policy.

16. Defendant's refusal to pay constitutes a breach of the insurance contract and the policy of insurance and is without reasonable cause or excuse.

17. That Defendant's refusal to pay Plaintiff's claim is without reasonable foundation in law or fact, is arbitrary and capricious, and entitles Plaintiff to such damages as are fair and reasonable.

WHEREFORE Plaintiff prays for judgment against Defendant for his damages herein incurred in a fair and reasonable amount, for interest as allowed by law, for his attorney's fees, for his reasonably incurred costs and for such further and additional relief as this Court may deem just and proper under the circumstances.

COUNT II- VEXATIOUS REFUSAL

COMES NOW Plaintiff Robert Atkison, by and through his attorneys of record, HOSMER KING & ROYCE, LLC, and for Count II of his cause of action, states, alleges and avers to the Court as follows:

18. Plaintiff restates, realleges and reavers each and every allegation contained in Count I of Plaintiffs' Petition and incorporates the same herein by reference.

19. Defendant has failed and refused to pay and still refuses to pay Plaintiff the full amounts due under said policy.

20. Defendant's refusal to pay the amount due and owing Plaintiff under the aforesaid

policy of insurance was and is vexatious and without reasonable cause or excuse.

21. Defendant Humana's refusal to pay the amount due and owing plaintiff under the aforesaid policy of insurance was and is vexatious and without reasonable cause of excuse in that:

- a. Defendant Humans failed to assist the policy holder with the claim.
- b. Defendant Humana failed to implement and follow reasonable standards for the prompt investigation of claims.
- c. Defendant Humana failed to thoroughly investigate the claim.
- d. Defendant Humana failed to objectively investigate the claim.
- e. Defendant Humana failed to implement and follow reasonable standards for the prompt evaluation and resolution of claims.
- f. Defendant Humana failed to objectively evaluate the claim.
- g. Defendant Humana ignored evidence that supports coverage of the claim.
- h. Defendant Humana failed to fairly, reasonably, and promptly pay the claim.
- i. Defendant Humana failed to pay the claim based on speculation.
- j. Defendant Humana failed to provide a reasonable explanation or supporting documentation of the basis for denial of a portion of the claim.
- k. Defendant Humana attempted to settle the claim for an unreasonably low amount.
- l. Defendant Humana failed to disclose to its insured significant facts and reports that forma a portion of the insured's file, and allegedly form the basis of their denial of a portion of the claim.

22. Section 375.296 RSMo., was in full force and effect the date of Plaintiffs' damages.

That section provides that:

In any action, suit or other proceeding instituted against any insurance company, association or other insurer upon any contract of insurance issued or delivered in this state to a resident of this state, or to a corporation incorporated in or authorized to do business in this state, if the insurer has failed or refused for a period of thirty days after due demand therefor prior to the institution of the action, suit or proceeding, to make payment under and in accordance with the terms and provisions of the contract of insurance, and it shall appear from the evidence that the refusal was vexatious and without reasonable cause, the court or jury may, in addition to the amount due under the provisions of the contract of insurance and interest thereon, allow the plaintiff damages for vexatious refusal to pay and attorney's fees as provided in section 375.420. Failure of an insurer to appear and defend any action, suit or other proceeding shall be deemed prima facie evidence that its failure to make payment was vexatious without reasonable cause.

23. Section 375.420 RSMo., was in full force and effect the date of Plaintiffs' damages.

That section provides that:

In any action against any insurance company to recover the amount of any loss under a policy of automobile, fire, cyclone, lightning, life, health, accident, employers' liability, burglary, theft, embezzlement, fidelity, indemnity, marine or other insurance except automobile liability insurance, if it appears from the evidence that such company has refused to pay such loss without reasonable cause or excuse, the court or jury may, in addition to the amount thereof and interest, allow the plaintiff damages not to exceed twenty percent of the first fifteen hundred dollars of the loss, and ten percent of the amount of the loss in excess of fifteen hundred dollars and a reasonable attorney's fee; and the court shall enter a judgment for the aggregate sum found in the verdict.

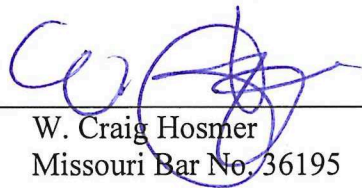
25. Plaintiff is entitled to damages of 20% of the first \$1,500.00 due and owing Plaintiff and 10% of the remaining amount due and owing Plaintiff, plus reasonable attorney fees pursuant to Missouri Statute.

26. Defendant's refusal to pay Plaintiff's claim is vexatious and without reasonable cause or excuse, entitling Plaintiff to such damages as are fair and reasonable, together with vexatious damages for the Defendant's unreasonable refusal to honor Plaintiff's claim and abide by the contractual provisions of the policy of insurance.

WHEREFORE Plaintiff prays for judgment against Defendant for his damages herein incurred in a fair and reasonable amount, for vexatious damages as allowed by law, for interest at the legal rate as allowed by law, for his reasonably incurred attorney's fees, for his reasonably incurred costs and for such further and additional relief as this Court may deem just and proper under the circumstances.

HOSMER KING & ROYCE, LLC

BY



W. Craig Hosmer
Missouri Bar No. 36195

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65802
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: craig.hosmer@hkrlawoffice.com




IN THE 30TH JUDICIAL CIRCUIT, WEBSTER COUNTY, MISSOURI

Judge or Division: MICHAEL O'BRIEN HENDRICKSON	Case Number: 22WE-CC00070
Plaintiff/Petitioner: ROBERT STACEY ATKISON	Plaintiff's/Petitioner's Attorney/Address WILLIAM CRAIG HOSMER PO BOX 1245 313 S GLENSTONE SPRINGFIELD, MO 65801
Defendant/Respondent: HUMANA INSURANCE COMPANY	Court Address: 101 S. CRITTENDEN -RM 22 CIVIL 859-2006 CRIM 859-2041 MARSHFIELD, MO 65706
Nature of Suit: CC Breach of Contract	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: HUMANA INSURANCE COMPANY
Alias:
CSC-LAWYERS INCORPORATING SERV
221 BOLIVAR ST
JEFFERSON CITY, MO 65101

COURT SEAL OF

WEBSTER COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

8/16/2022 /s/Vickie Replogle Deputy Clerk
Date Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with _____, a person at least 18 years of age residing therein.
☐ (for service on a corporation) delivering a copy of the summons and petition to: _____ (name) _____ (title).
☐ other: _____

Served at _____ (address)
in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____
Date Notary Public

Sheriff's Fees, if applicable

Summons \$ _____
Non Est \$ _____
Sheriff's Deputy Salary
Supplemental Surcharge \$ 10.00
Mileage \$ _____ (_____ miles @ \$._____ per mile)
Total \$ _____

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



IN THE 30TH JUDICIAL CIRCUIT, WEBSTER COUNTY, MISSOURI

Judge or Division: MICHAEL O'BRIEN HENDRICKSON	Case Number: 22WE-CC00070
Plaintiff/Petitioner: ROBERT STACEY ATKISON	Plaintiff's/Petitioner's Attorney/Address WILLIAM CRAIG HOSMER PO BOX 1245 313 S GLENSTONE SPRINGFIELD, MO 65801
Defendant/Respondent: HUMANA INSURANCE COMPANY	Court Address: 101 S. CRITTENDEN -RM 22 CIVIL 859-2006 CRIM 859-2041 MARSHFIELD, MO 65706
Nature of Suit: CC Breach of Contract	

RECEIVED


AUG 19 2022

COLE COUNTY
SHERIFF'S OFFICE

FILED

Summons in Civil Case

SEP 06 2022

The State of Missouri to: HUMANA INSURANCE COMPANY		STEPHANIE VESTAL Webster Co., Circuit Clerk
Alias: CSC-LAWYERS INCORPORATING SERV 221 BOLIVAR ST JEFFERSON CITY, MO 65101		
COURT SEAL OF  WEBSTER COUNTY	You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.	
	8/16/2022 Date	/s/Vickie Replogle Deputy Clerk Clerk
Further Information:		

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with _____, a person at least 18 years of age residing therein.

☒ (for service on a corporation) delivering a copy of the summons and petition to:
CSC Lawyers, S.C. (name) designee (title).
☐ other: _____

Served at 350 E. High St. (address)
in Cole (County/City of St. Louis), MO, on 08-22-22 (date) at 800 AM (time).

Sherry Ann P. Wheeler by St. Anne Wray
Printed Name of Sheriff or Server Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____
Date Notary Public

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$_____ per mile)
Total	\$ _____

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

1261